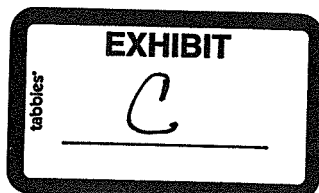


AFFIDAVIT OF RICHARD BERRY

**STATE OF MISSISSIPPI
COUNTY OF HINDS**

Personally came and appeared before me, the undersigned authority in and for the said County and State, within my jurisdiction, the within named Richard Berry, who, having been duly sworn by me, states on oath the following:

1. My name is Richard Berry. I am also known as Rickey Berry.
2. I have a Bachelor of Science degree from Delta State University in Social Science.
3. I have over thirty (30) years of experience in human resources and management. This experience includes work at Mississippi Vocational Rehabilitation, Steel Service Corporation, the Mississippi Employment Security Commission, and the Mississippi Department of Human Services (MDHS).
4. From 1994 to 1996, I served as Director of the JOBS Program for MDHS. I later served as Director of Resource Development for MDHS.
5. From January 2004 through early January 2012, I served as Deputy Administrator of Programs at MDHS.
6. On May 6, 2008, I was appointed by former Governor Haley Barbour to the Mississippi Early Childhood Advisory Council.
7. Effective January 11, 2012, Governor Phil Bryant appointed me to serve as the Executive Director of MDHS.
8. As Executive Director, I am responsible for the management and operations of MDHS which includes among other divisions, the Division of Family and Children's Services (DFCS).
9. At the time of my appointment, DFCS was in the midst of negotiating the *Olivia Y* Modified Settlement Agreement and Period 3 Plan with Children's Rights, Inc.



10. On March 14, 2012, the Deputy Administrator of Mississippi Department of Human Services-Division of Children and Family Services (MDHS-DFCS), Lori Woodruff, first announced that she planned to retire effective July 1, 2012.

11. Just after Ms. Woodruff's announcement, MDHS-DFCS, through counsel, asked attorneys from Children's Rights, Inc. (CRI) to encourage anyone they knew of who was qualified and interested in the position to apply. To my knowledge, no applicant responded as a result of our inquiry from CRI.

12. DFCS first began publically advertising this position on April 3, 2012. In Mississippi, the position was advertised within MDHS, on the Mississippi State Personnel Board (SPB) website, and through the schools of social work including those at Belhaven University, Delta State University, Jackson State University, Mississippi College, Mississippi State University, University of Mississippi, and the University of Southern Mississippi.

13. The position was advertised within Mississippi and nationally so that defendants could select from as many qualified applicants as possible.

14. Nationally, May 2-June 2, 2012, the Deputy Administrator MDHS-DFCS position was advertised on the Child Welfare League of America (CWLA) Career Center webpage, the American Public Human Services Association (APHSA) jobs website, and the National Association of Social Workers (NASW) website.

15. MDHS-DFCS' advertising efforts resulted in the receipt of over one hundred (100) applications. Mark Smith (Deputy Executive Director of MDHS) and I reviewed the applications and narrowed them down based on how their qualifications matched up to the requirements for the Deputy Administrator MDHS-DFCS position.

16. Interviews were conducted on June 1, 2012, with six (6) in-state applicants and on June 6, 2012, with one (1) in-state applicant. The applicants were interviewed by a panel of four

(4) including Mark Smith, Lori Woodruff (then Deputy Administrator of MDHS-DFCS), Kenya Key Rachal (Attorney for MDHS-DFCS and the Governor in the *Olivia Y* lawsuit) and me.

17. Between June 18-19, 2012, three (3) out-of-state applicants were interviewed by the same panel of four (4). The fourth out-of-state candidate was unable to sit for an interview on those dates and had to reschedule.

18. Effective July 1, 2012, Lori Woodruff, Deputy Administrator of MDHS-DFCS retired.

19. On July 3, 2012, the fourth out-of-state candidate interviewed via telephone with a panel of four (4). The panelists for these interviews included Mark Smith, John Davis (Social Worker and Deputy Administrator of Programs at MDHS), Kenya Key Rachal and me. This applicant's interview, experience, and background information, established this applicant as the leading candidate for the Deputy Administrator MDHS-DFCS position.

20. On July 5, 2012, through counsel, DFCS provided the resumes of the four finalists for the Deputy Administrator MDHS-DFCS position to CRI and the Monitor. DFCS expressed that while DFCS would make the ultimate decision on which applicant is hired, DFCS requested feedback on the applicants by July 13, 2012.

21. On July 16, 2012, the applicant DFCS considered to be the leading candidate, withdrew from consideration due to an unforeseen personal matter.

22. On July 18, 2013, CRI responded that they had "serious concerns about whether any of the four finalists are up to the challenge of turning things around at DFCS."

23. On August 8, 2012, through counsel, we advised CRI that one of the four finalists had withdrawn from consideration and that MDHS-DFCS planned to re-advertise the position.

24. From August 7-September 7, 2012, DFCS re-advertised the position nationally on the websites of CWLA Career Center, APHSA Jobs, and NASW.

25. The advertisement was also placed on the SPB website and advertised in-house at DFCS. The position was re-advertised with the schools of social work including those at Alcorn, Belhaven, Delta State, Jackson State, Mississippi College, Mississippi State, Mississippi Valley State, Rust College, Tougaloo College, University of Mississippi, and the University of Southern Mississippi.

26. DFCS received applications but most of the applicants were not qualified for the position. In an effort to improve the chances of recruiting more qualified candidates, MDHS-DFCS sought an increase in the starting salary for the MDHS-DFCS Deputy Administrator position through the SPB.

27. On September 20, 2012, SPB approved a \$7,769.70 increase in the starting salary for the Deputy Administrator MDHS-DFCS position resulting in a maximum starting salary of \$104,898.46.

28. From September 21-October 21, 2012, MDHS-DFCS re-advertised the position reflecting the increased starting salary. The position was advertised nationally through the CWLA Career Center webpage, APHSA jobs website, and NASW websites. It was also advertised through the SPB website.

29. On October 22, 2012, two (2) in-state candidates were interviewed by a panel of four (4). The panelists for these interviews included Mark Smith, John Davis, Kenya Key Rachal and me.

30. On October 25, 2012, an out-of-state candidate was interviewed by a panel of four (4). The panelists for these interviews included Mark Smith, John Davis, Kenya Key Rachal and me.

31. On October 29, 2012, an in-state applicant was interviewed by a panel of four (4). The panelists for these interviews included Mark Smith, John Davis, Kenya Key Rachal and me.

32. An in-state applicant was interviewed by Mark Smith November 9, 2012 and on November 29, 2012, I interviewed this applicant. On December 5, 2012, this in-state candidate was interviewed by Kenya Key Rachal. This concluded all of the interviews.

33. Kimberly K. Shackelford, Ph.D., LCSW accepted the position of Deputy Administrator of MDHS-DFCS and on December 18, 2102, informed her current employer of that decision. Dr. Shackelford is a well-known child welfare expert, consultant, and professor of social work at the University of Mississippi. She is a former director of the University of Mississippi Department of Social Work Baccalaureate Program and MDHS-DFCS caseworker/supervisor. Dr. Shackelford accepted the Deputy Administrator MDHS-DFCS position with a start date of April 1, 2013, to allow her to complete her obligations to the University of Mississippi.

34. On December 20, 2012, DFCS advised CRI, through counsel, of Dr. Shackelford's hire.

35. Though recruitment efforts were time consuming, the process was vital in order to hire the right person to further the Olivia Y reform efforts.

36. The matters set forth herein are based on my personal knowledge as well as my review of records kept in the ordinary course of business.

37. I declare under penalty of perjury to the best of my knowledge that the forgoing is true and correct.

FURTHER AFFIANT SAYETH NOT, this the 13th day of February, 2013.

Richard Berry
RICHARD BERRY

SWORN TO AND SUBSCRIBED BEFORE ME, this the 13th day of February, 2013.



Beth Handelman
NOTARY PUBLIC

My Commission Expires:

March 4, 2016